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AO 91 (REV. 5/85) Criminal Complaint

AUSA Steven A. Block 312-886-7647

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

KC FILED

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12-20-2007

MICHAEL W. DOBBINS

CLERK, U.S. DISTRICT COURT

CRIMINAL COMPLAINT

07CR 0856

UNITED STATES OF AMERICA

v.

BRIAN BERG

CASE NUMBER:

MAGISTRATE JUDGE SCHENKIER

I, the undersigned complainant, being duly sworn on oath, state that the following is true and correct to the best of my knowledge and belief.

On or about November 11, 2007, in the Northern District of Illinois, Eastern Division, BRIAN BERG, defendant herein,

attempted to use a facility of interstate and foreign commerce, namely an America Online chat room, to knowingly persuade, induce, entice and coerce an individual under the age of 17 years to engage in sexual activity for which he could be charged with a criminal offense;

in violation of Title 18, United States Code, Section 2422(b).

On or about June 24, 2007, in the Northern District of Illinois, Eastern Division, BRIAN BERG, defendant herein,

knowingly received and possessed child pornography that had been transported in interstate commerce

in violation of Title 18, United States Code, Section 2252A(a). I further state that I am a Postal Inspector with the United States Postal Inspection Service and that this complaint is based on the facts contained in the Affidavit which is attached hereto and incorporated herein.



Signature of Complainant

LARRY S. MAXWELL

Postal Inspector, U.S. Postal Inspection Service

Sworn to before me and subscribed in my presence,

December 20, 2007


Date

at Chicago, Illinois

City and State

SIDNEY I. SCHENKIER, U.S. Magistrate Judge

Name & Title of Judicial Officer



Signature of Judicial Officer

STATE OF ILLINOIS)
)
COUNTY OF COOK)

AFFIDAVIT

I, LARY S. MAXWELL, state as follows:

1. I am a United States Postal Inspector and have been so employed since July of 1984. I am currently assigned to the Chicago Division of the USPIS. I am responsible for conducting investigations involving, among other things, the alleged use of the United States mails to distribute and receive child pornography in violation of Title 18, United States Code, Sections 2251 *et seq.* and the alleged use of the United States Mails to coerce and entice a minor to engage in in illicit sexual conduct, in violation of Title 18, United States Code, Section 2422.

2. Since June 2002, I have been assigned to the Federal Child Exploitation Strike Force, a multi-jurisdictional, pro-active unit comprised of law enforcement officers from the Postal Inspection Service, Detectives from the Cook County Sheriff's Police Department, Youth Officers from the Chicago Police Department, and Investigators from the Cook County State's Attorney's Office. The purpose of the Strike Force is to identify and investigate the activities of persons suspected of sexually exploiting or sexually abusing children, oftentimes by the use of the United States Mails.

3. At several schools and seminars, including at the USPIS in Chicago, IL and the U.S. Postal Inspection Service's Computer Investigations Division, Washington, D.C., I have received training in the investigation of child pornography and child sexual exploitation, including specialized instruction on how to conduct investigations of child sexual exploitation and child pornography. As part of the training at these schools and

seminars, I have observed and reviewed videotapes, photographs, computer graphics and other media deemed to be child pornography.

4. As part of my work, I have conducted approximately 36 child sexual abuse or child sexual exploitation investigations. Most of these investigations involved persons suspected of distributing and receiving child pornography. I have participated in the execution of approximately 90 search warrants, many of which have resulted in the seizure of multiple items of child pornography.

5. In addition to my experience, I have received training in the investigation of computer-related crimes. I have personal knowledge in the operation of computers and cellular telephones. Based on this training and knowledge, I know the following:

- a. The Internet is a worldwide computer network that connects computers and allows communications and the transfer of data and information across state and national boundaries.
- b. Individuals who use the Internet can communicate with each other by using email, or by using instantaneous private messaging communications. Email is an electronic form of communication that can contain letter-type correspondence and graphic images. Email is similar to conventional paper-type mail in that it is addressed from one individual to another.
- c. An email message usually contains a "header" that provides the sender's screen name, the identity of the Internet access provider, and the return address on the Internet of the individual who originated the message or graphic.

6. A cellular telephone has the capability not only to make calls, but to access the Internet, receive emails and have Instant Message "text message" chats with others on their telephone or on a computer. The cellular telephone can in some cases save "text messages" and pictures sent through email on the phone. A cellular phone can also have the capability to take digital pictures and short movies which are saved in the memory of the cellular telephone. Once these picture and movie files are saved, they can be sent by email from the cellular telephone to any other email account.

7. As a result of my training and experience, I have learned that individuals involved in the production, distribution and possession of child pornography commonly use computers and peripheral devices such as digital cameras, floppy disks, CDs, zip disks, cellular telephones and other tools to make, distribute and store child pornography.

8. The information contained within this affidavit is based on my personal observations and training, as well as on information related to me by other law enforcement officers. This affidavit does not, however, contain everything I know about this investigation or all the information, obtained during the course of this investigation. Instead, I have provided those facts that are sufficient to establish probable cause to believe that Brian Berg has violated federal statutes prohibiting the sexual exploitation of children, including Title 18, United States Code, Section 2422 and 2252A.

9. On approximately November 11, 2007, Brian Berg was arrested by the Western Springs, Illinois Police Department for Indecent Solicitation of a Child (Chapter 720, ILCS 5/11-6(a)). Berg had communicated by instant message chats on his computer using the AOL ID "Chicubs0007," by email using the address chicubs0007@aol.com, and by "text messages" using his cellular phone with telephone number (708) 277-3234

with an undercover officer portraying a 16 year old girl. During the investigation, Berg sent the undercover officer by email several pictures of his nude and erect penis and of his penis enclosed in boxer shorts. Berg also sent "text messages" to the undercover officer's cellular phone and on the date of his arrest Berg communicated with the undercover officer by "text messages" as he drove to meet the person whom he thought was a 16 year old girl. The text messages Berg sent included detailed information regarding the meeting, such as the color of his car and the precise location of their meeting.

10. Berg was arrested at the meeting location, advised of his rights per *Miranda*, and agreed to talk with Investigator Dan Albrecht, Western Springs, Illinois Police Department. Berg also signed consent to search forms for his house, cellular telephone, Hewlett Packard computer, and his email accounts with Yahoo and AOL. Berg admitted he would have had sexual contact with the undercover officer's 16 year old female persona if "she" would have agreed. Berg also admitted meeting another minor female several months prior and having that girl give him a "hand job." Berg also admitted that he had child pornography pictures on his computer.

11. On November 12, 2007, Investigator Albrecht conducted a consensual search of the home of Brian Berg at 13097 Laurel Glen Ct. Apt. 204, Palos Heights, IL 60463. Inside the residence Investigator Albrecht recovered a Hewlett Packard Computer and took pictures of the computer set up. The investigator also noticed a non-nude picture of a teen girl hanging on a mirror in Berg's home. The picture had the name of a girl (hereinafter referred to as "MF") on the back of it.

12. On approximately November 12, 2007, Investigator Albrecht reviewed

Brian Berg's cellular telephone and discovered approximately 33 photos, dated from December 21, 2006 through August 21, 2007, of what appeared to be a teen girl. These pictures included clothed and unclothed pictures and included the exposed breasts, vagina and anus of the girl. Berg was asked about the photos and stated they were of his 17 year old girlfriend, MF, who lives in Oregon.

13. On approximately November 14, 2007, Investigator Albrecht reviewed the AOL email account of Brian Berg, chicubs0007@aol.com, using the password provided by Berg, "bb60463." Investigator Albrecht found an email dated June 24, 2007 to Brian Berg from an email account later identified as belonging to MF. The email included 11 pictures of MF in various stages of undress including two which were close-up shots of her vagina with her hand in front of it. The email subject line reads, "some pictures" and the text in the email reads, "here's eleven, I hope there good enough :) Love you baby."

14. On approximately November 13, 2007, Investigator Albrecht made contact with MF through the cell phone number listed for her in Berg's cellular phone. MF identified herself as a 17 year old female living in Oregon. MF admitted knowing Brian Berg, whom she said met in Illinois when she was approximately 12-13 years of age. MF said Berg would pay her and a second minor female to pose for both clothed and unclothed pictures and sometimes for her "worn" panties. MF also admitted having sexual intercourse with Brian Berg and oral sex. MF also admitted taking nude photos of herself and sending them to Berg through her email account to his chicubs0007@aol.com account. MF contacted Investigator Albrecht on November 15, 2007, and told him she had received an express mail package from Berg that day that contained \$60 in U.S. currency and a note which read, "Baby, I lost my phone. Probably won't get a new one

til the weekend. Here is my work #, call me when you get this. 847-878-9876 I love you Baby. Brian xoxo." Brian Berg's cellular phone is still in the possession of the Western Springs Police Department.

15. On approximately November 14, 2007, Investigator Albrecht subpoenaed AOL for the name of the account owner of the email account chicubs0007@aol.com. On November 19, 2007, AOL provided information showing that the account was registered to Brian Berg, 13097 Laurel Glenn Ct., Palos Heights, IL 60463. The account had been opened on September 7, 2005.

16. On December 7, 2007, Postal Inspectors interviewed MF in Oregon. MF stated she began posing nude for Berg in 2005, and moved from Illinois to Oregon in the summer of 2006. MF stated that Berg had sent her money to buy a plane ticket to return to Illinois on several occasions and that she had been back to visit three times since moving to Oregon. MF stated that she stayed with friends, but would visit with Berg while she was in Illinois. MF identified the 11 pictures sent in the email on June 24, 2007 as images of her taken when she was 17 years old. MF stated that she had provided these images and other images to Berg at his request. MF also showed Postal Inspectors a "text message" she had received on her cellular phone that day from Berg, which stated he wanted her to "pee" on him in the shower for his birthday. MF stated that she had received numerous "text messages" on her cellular phone from Berg since November 11, 2007, the day he was arrested.

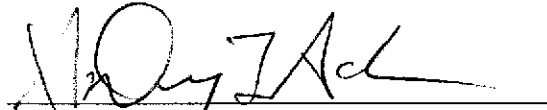
17. Based on the above information, I believe that there is probable cause to believe that on or about June 24, 2007, Brian Berg received and possessed child pornography in violation of 18 U.S.C. § 2252, and on or about November 11, 2007, Brian Berg attempted to coerce and entice a minor to engage in sex in violation of 18 U.S.C. § 2422.

Further affiant sayeth not.



Lary S. Maxwell
Postal Inspector
U. S. Postal Inspection Service

Subscribed and sworn before
me this 20th day of December, 2007.



Sidney I. Schenkier
U.S. Magistrate Judge